

## § 63.1

63.1216 Extension of compliance date to install pollution prevention or waste minimization controls.

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APPENDIX D TO PART 63—ALTERNATIVE VALIDATION PROCEDURE FOR EPA WASTE AND WASTEWATER METHODS

AUTHORITY: 42 U.S.C. 7401 *et seq.*

SOURCE: 57 FR 61992, Dec. 29, 1992, unless otherwise noted.

### Subpart A—General Provisions

SOURCE: 59 FR 12430, Mar. 16, 1994, unless otherwise noted.

#### § 63.1 Applicability.

(a) *General.* (1) Terms used throughout this part are defined in § 63.2 or in the Clean Air Act (Act) as amended in 1990, except that individual subparts of this part may include specific definitions in addition to or that supersede definitions in § 63.2.

(2) This part contains national emission standards for hazardous air pollutants (NESHAP) established pursuant to section 112 of the Act as amended November 15, 1990. These standards regulate specific categories of stationary sources that emit (or have the potential to emit) one or more hazardous air pollutants listed in this part pursuant to section 112(b) of the Act. This section explains the applicability of such standards to sources affected by them. The standards in this part are independent of NESHAP contained in 40 CFR part 61. The NESHAP in part 61 promulgated by signature of the Administrator before November 15, 1990 (i.e., the date of enactment of the

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Clean Air Act Amendments of 1990) remain in effect until they are amended, if appropriate, and added to this part.

(3) No emission standard or other requirement established under this part shall be interpreted, construed, or applied to diminish or replace the requirements of a more stringent emission limitation or other applicable requirement established by the Administrator pursuant to other authority of the Act (including those requirements in part 60 of this chapter), or a standard issued under State authority.

(4) The provisions of this subpart (i.e., subpart A of this part) apply to owners or operators who are subject to subsequent subparts of this part, except when otherwise specified in a particular subpart or in a relevant standard. The general provisions in subpart A eliminate the repetition of requirements applicable to all owners or operators affected by this part. The general provisions in subpart A do not apply to regulations developed pursuant to section 112(r) of the amended Act, unless otherwise specified in those regulations.

(5) [Reserved]

(6) To obtain the most current list of categories of sources to be regulated under section 112 of the Act, or to obtain the most recent regulation promulgation schedule established pursuant to section 112(e) of the Act, contact the Office of the Director, Emission Standards Division, Office of Air Quality Planning and Standards, U.S. EPA (MD-13), Research Triangle Park, North Carolina 27711.

(7) Subpart D of this part contains regulations that address procedures for an owner or operator to obtain an extension of compliance with a relevant standard through an early reduction of emissions of hazardous air pollutants pursuant to section 112(i)(5) of the Act.

(8) Subpart E of this part contains regulations that provide for the establishment of procedures consistent with section 112(l) of the Act for the approval of State rules or programs to implement and enforce applicable Federal rules promulgated under the authority of section 112. Subpart E also establishes procedures for the review and withdrawal of section 112 implementation and enforcement authorities

granted through a section 112(l) approval.

(9) [Reserved]

(10) For the purposes of this part, time periods specified in days shall be measured in calendar days, even if the word "calendar" is absent, unless otherwise specified in an applicable requirement.

(11) For the purposes of this part, if an explicit postmark deadline is not specified in an applicable requirement for the submittal of a notification, application, test plan, report, or other written communication to the Administrator, the owner or operator shall postmark the submittal on or before the number of days specified in the applicable requirement. For example, if a notification must be submitted 15 days before a particular event is scheduled to take place, the notification shall be postmarked on or before 15 days preceding the event; likewise, if a notification must be submitted 15 days after a particular event takes place, the notification shall be postmarked on or before 15 days following the end of the event. The use of reliable non-Government mail carriers that provide indications of verifiable delivery of information required to be submitted to the Administrator, similar to the postmark provided by the U.S. Postal Service, or alternative means of delivery agreed to by the permitting authority, is acceptable.

(12) Notwithstanding time periods or postmark deadlines specified in this part for the submittal of information to the Administrator by an owner or operator, or the review of such information by the Administrator, such time periods or deadlines may be changed by mutual agreement between the owner or operator and the Administrator. Procedures governing the implementation of this provision are specified in § 63.9(i).

(13) Special provisions set forth under an applicable subpart of this part or in a relevant standard established under this part shall supersede any conflicting provisions of this subpart.

(14) Any standards, limitations, prohibitions, or other federally enforceable requirements established pursuant to procedural regulations in this part

[including, but not limited to, equivalent emission limitations established pursuant to section 112(g) of the Act] shall have the force and effect of requirements promulgated in this part and shall be subject to the provisions of this subpart, except when explicitly specified otherwise.

(b) *Initial applicability determination for this part.* (1) The provisions of this part apply to the owner or operator of any stationary source that—

(i) Emits or has the potential to emit any hazardous air pollutant listed in or pursuant to section 112(b) of the Act; and

(ii) Is subject to any standard, limitation, prohibition, or other federally enforceable requirement established pursuant to this part.

(2) In addition to complying with the provisions of this part, the owner or operator of any such source may be required to obtain an operating permit issued to stationary sources by an authorized State air pollution control agency or by the Administrator of the U.S. Environmental Protection Agency (EPA) pursuant to title V of the Act (42 U.S.C. 7661). For more information about obtaining an operating permit, see part 70 of this chapter.

(3) An owner or operator of a stationary source that emits (or has the potential to emit, without considering controls) one or more hazardous air pollutants who determines that the source is not subject to a relevant standard or other requirement established under this part, shall keep a record of the applicability determination as specified in § 63.10(b)(3) of this subpart.

(c) *Applicability of this part after a relevant standard has been set under this part.* (1) If a relevant standard has been established under this part, the owner or operator of an affected source shall comply with the provisions of this subpart and the provisions of that standard, except as specified otherwise in this subpart or that standard.

(2) If a relevant standard has been established under this part, the owner or operator of an affected source may be required to obtain a title V permit from the permitting authority in the State in which the source is located. Emission standards promulgated in

this part for area sources will specify whether—

(i) States will have the option to exclude area sources affected by that standard from the requirement to obtain a title V permit (i.e., the standard will exempt the category of area sources altogether from the permitting requirement);

(ii) States will have the option to defer permitting of area sources in that category until the Administrator takes rulemaking action to determine applicability of the permitting requirements; or

(iii) Area sources affected by that emission standard are immediately subject to the requirement to apply for and obtain a title V permit in all States. If a standard fails to specify what the permitting requirements will be for area sources affected by that standard, then area sources that are subject to the standard will be subject to the requirement to obtain a title V permit without deferral. If the owner or operator is required to obtain a title V permit, he or she shall apply for such permit in accordance with part 70 of this chapter and applicable State regulations, or in accordance with the regulations contained in this chapter to implement the Federal title V permit program (42 U.S.C. 7661), whichever regulations are applicable.

(3) [Reserved]

(4) If the owner or operator of an existing source obtains an extension of compliance for such source in accordance with the provisions of subpart D of this part, the owner or operator shall comply with all requirements of this subpart except those requirements that are specifically overridden in the extension of compliance for that source.

(5) If an area source that otherwise would be subject to an emission standard or other requirement established under this part if it were a major source subsequently increases its emissions of hazardous air pollutants (or its potential to emit hazardous air pollutants) such that the source is a major source that is subject to the emission standard or other requirement, such source also shall be subject to the notification requirements of this subpart.

(d) [Reserved]

(e) *Applicability of permit program before a relevant standard has been set under this part.* After the effective date of an approved permit program in the State in which a stationary source is (or would be) located, the owner or operator of such source may be required to obtain a title V permit from the permitting authority in that State (or revise such a permit if one has already been issued to the source) before a relevant standard is established under this part. If the owner or operator is required to obtain (or revise) a title V permit, he/she shall apply to obtain (or revise) such permit in accordance with the regulations contained in part 70 of this chapter and applicable State regulations, or the regulations codified in this chapter to implement the Federal title V permit program (42 U.S.C. 7661), whichever regulations are applicable.

#### § 63.2 Definitions.

The terms used in this part are defined in the Act or in this section as follows:

*Act* means the Clean Air Act (42 U.S.C. 7401 *et seq.*, as amended by Pub. L. 101-549, 104 Stat. 2399).

*Actual emissions* is defined in subpart D of this part for the purpose of granting a compliance extension for an early reduction of hazardous air pollutants.

*Administrator* means the Administrator of the United States Environmental Protection Agency or his or her authorized representative (e.g., a State that has been delegated the authority to implement the provisions of this part).

*Affected source*, for the purposes of this part, means the stationary source, the group of stationary sources, or the portion of a stationary source that is regulated by a relevant standard or other requirement established pursuant to section 112 of the Act. Each relevant standard will define the "affected source" for the purposes of that standard. The term "affected source," as used in this part, is separate and distinct from any other use of that term in EPA regulations such as those implementing title IV of the Act. Sources regulated under part 60 or part 61 of this chapter are not affected sources for the purposes of part 63.

*Alternative emission limitation* means conditions established pursuant to sections 112(i)(5) or 112(i)(6) of the Act by the Administrator or by a State with an approved permit program.

*Alternative emission standard* means an alternative means of emission limitation that, after notice and opportunity for public comment, has been demonstrated by an owner or operator to the Administrator's satisfaction to achieve a reduction in emissions of any air pollutant at least equivalent to the reduction in emissions of such pollutant achieved under a relevant design, equipment, work practice, or operational emission standard, or combination thereof, established under this part pursuant to section 112(h) of the Act.

*Alternative test method* means any method of sampling and analyzing for an air pollutant that is not a test method in this chapter and that has been demonstrated to the Administrator's satisfaction, using Method 301 in Appendix A of this part, to produce results adequate for the Administrator's determination that it may be used in place of a test method specified in this part.

*Approved permit program* means a State permit program approved by the Administrator as meeting the requirements of part 70 of this chapter or a Federal permit program established in this chapter pursuant to title V of the Act (42 U.S.C. 7661).

*Area source* means any stationary source of hazardous air pollutants that is not a major source as defined in this part.

*Commenced* means, with respect to construction or reconstruction of a stationary source, that an owner or operator has undertaken a continuous program of construction or reconstruction or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or reconstruction.

*Compliance date* means the date by which an affected source is required to be in compliance with a relevant standard, limitation, prohibition, or any federally enforceable requirement established by the Administrator (or a State